

CARIM EAST – CONSORTIUM FOR APPLIED RESEARCH ON INTERNATIONAL MIGRATION

Co-financed by the European Union

Integration of Migrants and Reintegration of Returnees in Georgia: Legal Prospective

Gaga Gabrichidze

CARIM-East Research Report 2013/22

CARIM-East
Creating an Observatory of Migration East of Europe

Research Report
CARIM-East RR 2013/22

**Integration of Migrants and Reintegration
of Returnees in Georgia:
Legal Prospective**

Gaga Gabrichidze

© 2013, European University Institute
Robert Schuman Centre for Advanced Studies

This text may be downloaded only for personal research purposes. Any additional reproduction for other purposes, whether in hard copies or electronically, requires the consent of the Robert Schuman Centre for Advanced Studies.

Requests should be addressed to carim.east@eui.eu
If cited or quoted, reference should be made as follows:

Gaga Gabrichidze, Integration of Migrants and Reintegration of Returnees in Georgia: Legal Prospective, CARIM-East RR 2013/22, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2013.

THE VIEWS EXPRESSED IN THIS PUBLICATION CANNOT IN ANY CIRCUMSTANCES BE REGARDED AS THE
OFFICIAL POSITION OF THE EUROPEAN UNION

European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)
Italy

<http://www.eui.eu/RSCAS/Publications/>
<http://www.carim-east.eu/publications/>
<http://cadmus.eui.eu>

CARIM-East – Creating an Observatory East of Europe

This project which is co-financed by the European Union is the first migration observatory focused on the Eastern Neighbourhood of the European Union and covers all countries of the Eastern Partnership initiative (Belarus, Ukraine, the Republic of Moldova, Georgia, Armenia and Azerbaijan) and Russian Federation.

The project's two main themes are:

- (1) migration from the region to the European Union (EU) focusing in particular on countries of emigration and transit on the EU's eastern border; and
- (2) intraregional migration in the post-Soviet space.

The project started on 1 April 2011 as a joint initiative of the European University Institute (EUI), Florence, Italy (the lead institution), and the Centre of Migration Research (CMR) at the University of Warsaw, Poland (the partner institution).

CARIM researchers undertake comprehensive and policy-oriented analyses of very diverse aspects of human mobility and related labour market developments east of the EU and discuss their likely impacts on the fast evolving socio-economic fabric of the six Eastern Partners and Russia, as well as that of the European Union.

In particular, CARIM-East:

- builds a broad network of national experts from the region representing all principal disciplines focused on human migration, labour mobility and national development issues (e.g. demography, law, economics, sociology, political science).
- develops a comprehensive database to monitor migration stocks and flows in the region, relevant legislative developments and national policy initiatives;
- undertakes, jointly with researchers from the region, systematic and *ad hoc* studies of emerging migration issues at regional and national levels.
- provides opportunities for scholars from the region to participate in workshops organized by the EUI and CMR, including academic exchange opportunities for PhD candidates;
- provides forums for national and international experts to interact with policymakers and other stakeholders in the countries concerned.

Results of the above activities are made available for public consultation through the website of the project: <http://www.carim-east.eu/>

For more information:

CARIM-East

Robert Schuman Centre for Advanced Studies (EUI)

Convento

Via delle Fontanelle 19

50014 San Domenico di Fiesole

Italy

Tel: +39 055 46 85 817

Fax: + 39 055 46 85 770

Email: carim.east@eui.eu

Robert Schuman Centre for Advanced Studies

<http://www.eui.eu/RSCAS/>

Table of Contents

Introduction	1
Anti-discrimination legislation.....	1
Economic integration	2
Education.....	3
Recognition of foreign qualifications.....	4
Healthcare and social protection	5
Political integration	6
Language	6
Requirements for acquiring a permanent residence permit and options for becoming a citizen	7
Reintegration of returning Georgian migrants	8
Impact of the EU-Georgia relations on development of integration policy	8
Conclusion and Recommendations	9

Introduction

Georgia is, above all, a country of emigration. For that reason, the issue of the integration of immigrants has never been to the fore in the political debate. However, even if there is no policy document on the integration of migrants there are a lot of provisions in Georgian legislation which are related to the integration of migrants. Primarily this concerns the provisions regulating the rights and obligations of migrants as the comparison of legal status of migrants with that of Georgian citizens may help to define the position of migrant with regard to integration. Also of importance are those measures implemented by the state which can be considered as positive measures with regards to integration.

Therefore, we will first analyse the legal and institutional framework of integration will be analyzed and second, we will offer an overview of measures supporting the integration of migrants as well as reintegration measures taken by the state. Challenges will be identified and recommendations will be elaborated based on this analysis. It should also be noted here that the study will cover the status of foreign citizens in general and the integration-relevant aspect of relations in which stateless persons and also refugees participate.

Anti-discrimination legislation

A general provision on the rights of foreign citizens in Georgia is provided for by the Constitution of Georgia.¹ According to Article 47 of the Constitution of Georgia, foreign citizens and stateless persons residing in Georgia shall have the same rights and obligations as Georgian citizens with exceptions envisaged by the Constitution and law. This reference to exceptions is a reservation of a general nature which generally concerns the restriction of the political rights of foreign citizens.

In the Law of Georgia on the Legal Status of Aliens and Stateless Persons,² which is the main legal act regulating legal status of foreign citizens in Georgia, several articles, namely Articles 27-48, define specific rights and obligations. Article 27 of the Law on the Legal Status of Aliens and Stateless Persons contains a provision which is similar to Article 47 of the Constitution and which stipulates that Aliens shall have the same rights and freedoms in Georgia and the same obligations as those of Georgian citizens, unless otherwise provided by the legislation of Georgia. In particular, Aliens shall be on equal terms before the law in Georgia irrespective of their origin, social background, property, race, nationality, sex, education, language, religion, political or other opinions, field of activity and, indeed, any other circumstances. It is worth pointing out that the provisions on rights and obligations do not differentiate between the rights and obligations of foreign citizens having temporary residence permit with those with a permanent residence permit.

In general, Georgian migration policy is very liberal. The eligibility criteria for the acquisition of temporary resident status as well as of permanent resident status are relaxed. According to Article 19.1 of the Law on Legal Status of Aliens and Stateless Persons a temporary residence permit in Georgia shall be issued to that foreign citizen willing to stay in Georgia for not more than six years who: a) is engaged in labor activities according to regulations established in Georgian legislation, including those with free professions; b) has arrived in Georgia for the purpose of medical treatment or study; c) is invited to the country as a qualified specialist/professional or cultural worker by a relevant state authority and his/her invitation is related to the interests of the state; d) is a guardian or custodian of a

¹ Adopted 24 August 1995 (Last amended 29 June 2012). „Sakartvelos Parlamentis Utskebebi“31-33, 24/08/1995. A provision on equality of all individuals is embodied in Article 14 of the Constitution of Georgia according to which “everyone is free by birth and is equal before law regardless of race, colour, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence”.

² Adopted 27 December 2005 (Last amended on 25 May 2012). „Sakartvelos Sakanonmdablo Matsne“, 3, 16/01/2006.

Georgian citizen; e) is under the guardianship or custody of a Georgian citizen; f) is a spouse, parent, child, grandchild, adoptive parent, adopted child, sister, brother, grandfather or grandmother of a citizen of Georgia or of an alien having a residence permit in Georgia; g) might be reasonably thought to be a victim of trafficking in cases envisaged by the Law of Georgia “On Combating Human Trafficking”; h) takes part in the examination of his/her application either by the Restitution and Compensation Committee or the Committee of the Commission. Furthermore, a temporary residence permit may be issued to a person whom has been suspended citizenship of Georgia or also on the initiative of a member of the Georgian Government.³ The decision on issuing permanent residence permits is within the competence of State Services Development Agency which is a legal entity of public law operating in the management sphere of the Georgian Ministry of Justice. Its decisions may be appealed over as provided by the law.

After six years of temporary residence the foreign citizen may apply for a permanent residence permit: the conditions for this permit are similarly broad.⁴ Besides, there is no regulation on work permits in Georgian legislation, so that the labour activities of foreign citizens in Georgia are only limited with regard to activities where nationality can be of specific relevance (e.g. public service).⁵

According to Article 25 of the Law on the Legal Status of Aliens and Stateless Persons, the Period of Stay in Georgia is terminated if: the foreign citizen presents false or invalid documents in order to receive temporary residence or permanent residence permits; or if they are expelled from Georgia; or if the circumstances for which the residence permit has been obtained ceased no longer exist.

Economic integration

From the legal point of view, Georgia offers unlimited economic opportunities to foreign citizens. General provisions in this regard can be found in the Law on Legal Status of Aliens and Stateless Persons. According to Article 30.1, aliens have the right to get involved in investment and business activities in Georgia in accordance with Georgian legislation. Article 30.2 states that aliens shall have the same rights and obligations as those of Georgian nationals, unless otherwise provided by the legislation of Georgia and its international agreements. Article 31 allows aliens to perform labor activities in accordance with the rules established by Georgian legislation. This kind of wording of legal norms – rules of a general nature followed by reservations with regard to potentially existing limitations in other acts – is widespread in Georgian legislation. Though, mentioning or referring to some provisions which can be of relevance for the particular provision does not automatically mean that such provisions exist. Neither the Law on the Legal Status of Aliens and Stateless persons, nor the Labour Code and the Law on Entrepreneurs provides for any limitations for foreign citizens regarding employment or the establishment of commercial legal entities in Georgia. As in Georgian legislation there is no provision regulating the issue of work permits, in order to enter Georgia for work purposes and in order to perform labour activities in Georgia foreign citizens do not need to obtain work permits. Their labour activities are not regulated specifically. They are subject to the general framework which on equal terms applies to Georgian citizens. In particular, according to Article 6 of the Labour Code,⁶ labour relations in Georgia can be conducted on the basis of a labour contract which shall be made in writing or verbally, for a definite or indefinite period of time or with set terms

³ The state duty to be paid for issuance of a permanent residence card varies depending on the term of service. For Issuance on 30th business day the state duty to be paid is GEL 180 (Approximately EUR 84). It can be also issued on the 10th business day and in this case the state duty to be paid is GEL 380 (Approximately EUR 177).

⁴ See below.

⁵ For further details see CARIM-East Gaga Gabrichidze, Legal Aspects of Labour Migration Governance in Georgia, RR 2012/09.

⁶ Adopted 17 December 2010 (Last amended 22 June 2012). „Sakartvelos Sakanonmdeblo Matsne“, 75, 27/12/2010.

for the fulfillment of work.⁷ The Law on Entrepreneurs⁸ also does not differentiate between Georgian citizens and foreign citizens. The rules for the establishment of commercial legal entities or for getting registered as individual entrepreneurs apply in the same manner to all persons irrespective of their citizenship. Also the Civil Code⁹ does not set any limitations on foreign citizens buying or owning movable and immovable property in Georgia. Although the Law on the Ownership of Agricultural Land¹⁰ restricted the right of foreign citizens to own agricultural land, the provisions provided for such restrictions have been recently declared unconstitutional by the Constitutional Court of Georgia.¹¹

Education

According to Article 36 of the Law on Legal Status of Aliens and Stateless Persons, aliens residing in Georgia shall have the same rights to education as those of Georgian nationals in accordance with the rules established by the Georgian legislation. While the secondary education of Georgian citizens and foreign citizens having the legal status of compatriots living abroad¹² is fully financed by the state (Article 35.3 of the Constitution of Georgia; Article 22 of the Law on General Education), according to Article 22.7 of the Law on General Education,¹³ the citizens of other countries or stateless persons can also get vouchers for financing the secondary education in accordance with relevant international treaties or on the basis of reciprocity. The principle of reciprocity applies when the financing system in the relevant country is identical to the financing system in Georgia. The list of such countries is published by the Ministry of Education and Science of Georgia. In the absence of such treaties and the precondition for the principle of reciprocity, the secondary education of foreign citizens and stateless persons shall be financed at their own expense.

However, in contrast to Article 22.7 which ranges stateless persons with foreign citizens, Article 22¹⁴ differentiates between stateless persons as such and stateless persons having status in Georgia as to the rules established by the Law on Legal Status of Aliens and Stateless Persons.¹⁴ It stipulates that the secondary education of the latter shall be financed by the state on equal terms with the education of Georgian citizens.

As to Higher Education, it is partly financed by the state through a system of state study grants. According to Article 80.1 of the Law on Higher Education,¹⁵ a citizen of Georgia and a foreign citizen having the status of a compatriot living abroad, who is enrolled for an accredited educational program

⁷ See also Gaga Gabrichidze, Legal Aspects of Labour Migration Governance in Georgia, CARIM-East RR 2012/09.

⁸ Adopted on 28 October 1994 (Last amended on 25 May 2012). „Sakartvelos Parlamentis Utskebebi“, 21-22, 28/10/1994.

⁹ Adopted 26 June 1997 (Last amended on 25 May 2012). „Parlamentis Utskebani“, 31, 24/07/1997.

¹⁰ Adopted 22 March 1996 (Last amended on 21 July 2010). „Parlamentis Utskebani“, 007, 30/04/1996.

¹¹ Heike Cronquist vs. Parliament of Georgia, Decision No 3/1/512 of the Constitutional Court of Georgia of 26 June 2012. The Constitutional Court of Georgia held that the prohibition on the purchase of agricultural land by a foreign citizen constitutes a restriction of the right to property embodied in Article 21 of the Constitution of Georgia. It is argued that recognition of an individual as subject of the right to property is emanated by the simple fact that he/she is a human being and that this is not dependent on citizenship.

¹² The Law on Diaspora Organizations and Compatriots define a compatriot living abroad as a citizen of Georgia, who resides in another state for a long period of time, or a citizen of another state, who is of Georgian descent or/and whose native language belongs to the Georgian-Caucasian language group. In this context, Georgian descent means when a person or his/her ancestor belongs to any ethnic group living within the territory of Georgia, and recognizes Georgia as their country of origin.

¹³ Adopted 8 April 2005 (Last amended on 12 June 2012). „Sakartvelos Sakanonmdablo Matsne“, 20, 04/05/2005.

¹⁴ According to Article 3 of the Law on Legal Status of Aliens and Stateless Persons, the same legal regime shall be applied to stateless persons living permanently in a certain state as to the citizens of that state. As to the status of a stateless person living in Georgia, it is being granted upon application and on the basis of the results of ascertainment.

¹⁵ Adopted 22 December 2004 (Last amended on 12 June 2012). „Sakartvelos Sakanonmdablo Matsne“, 2, 10/01/2005.

of a higher education institution according to the procedure prescribed by this Law, shall be eligible for a state study grant. As to other foreign citizens, they may also receive state financing for higher education within the 2% of annual funding for state study grants. This can be done within the framework of a special program defined by the Ministry of Education and Science of Georgia, based on an international agreement or based on the principle of reciprocity (Article 80.2 of the Law on Higher Education).

According to the Order N1 69/n of the Minister of Education and Science,¹⁶ the amount of funds allocated for the financing of higher education of foreign citizens is GEL 195,000 (approximately EUR 90,900). The grants will be issued to 76 students who were admitted to accredited higher education institutions of Georgia through passing Unified National/Master's Exams and to 10 students admitted without passing Unified National/Master's Exams.

It is worth mentioning that with the purpose of supporting entrants and with the facilitation of the mobility of students, places at Georgian higher educational institutions without passing the Unified National Exams are allowed to: entrants who received complete general education abroad or its equivalent and who have completed last two years of general education abroad; students who lived abroad for the last two or more years and who are currently studying abroad in higher educational institutions recognized by host country legislation (Article 52.3 of the Law on Higher Education). Besides, Order №224/N of the Minister of Education and Science of Georgia¹⁷ adds to this list graduate students who lived abroad for the last two or more years and who received relevant certificates of completion of higher education abroad, as well as graduate students who have enrolled in higher educational institutions by Article 52.3 of the Law of Georgia on Higher Education. All of these persons have the right to submit an application to the legal entity of public law, the National Centre for Education Quality Enhancement of Georgia. If the application contains confirmation of fulfillment of criteria for study at the higher educational institutions of Georgia without passing the Unified National Exams, the Minister of Education and Science issues a conditional decision which is the basis for the enrollment of the applicant at a higher education institution. This decision will be void if the center does not confirm the fulfillment of requirements set by Georgian legislation.

Particular mention should be made of asylum seekers, refugees and persons with humanitarian status.¹⁸ According to Articles 18-19 of the Law on Refugee and Humanitarian Status,¹⁹ they have the same rights to education as do Georgian citizens.

Recognition of foreign qualifications

The recognition of foreign qualifications can also be very supportive for the integration of migrants. The decision on the recognition of education obtained abroad is being taken by the legal entity of public law: the National Center for Educational Quality Enhancement. This institution operates on the

¹⁶ Order N1 69/n of the Minister of Education and Science of 31 August 2012 on Approval of the Special State Program for Issuing the State Study Grants to Foreign Citizens in the Academic Year 2012-2013. www.mes.gov.ge, 04/09/2012.

¹⁷ Order №224/N of the Minister of Education and Science of Georgia of 29 December 2011 on the Approval of the Rule for Submission and Review of the Documents Required for Entrants/Graduate Students/Students with the Purpose of Study in the Higher Education Institutions of Georgia without Passing Uniform National Exams/General Graduate Examinations, www.mes.gov.ge, 30/12/2011.

¹⁸ According to Article 4 of the Law on Refugee and Humanitarian Status, humanitarian status can be obtained by a person, who cannot fulfil the requirements of refugee status, but who also cannot return to his or her place of permanent residence because of certain humanitarian reasons.

¹⁹ Adopted December 6, 2011 (Last amended on May 25, 2012). „Sakartvelos Sakanonmdablo Matsne“, 111220009, 20/12/2011.

basis of the order No 98/n of the Minister of Education and Science of Georgia.²⁰ The subject of recognition is general and applies to higher education as well as to vocational education. The recognition process comprises the verification of the authenticity of any diplomas issued by the educational institutions of foreign countries and the determination of the compatibility of any qualifications in these diplomas or the learning outcomes attained during the study period with Georgian qualifications. The verification process includes technical and substantive elements. For the purposes of the recognition of foreign higher education, the National Center for Educational Quality Enhancement is also empowered to organize aptitude exams.

Healthcare and social protection

In Georgia, the health insurance system is based on the free market principle, but, besides, there is a voucher-based health insurance system for persons living below the poverty threshold²¹ which was introduced by the Law on Healthcare in 2007.²² Furthermore, there are up to 30 state health care programs which stipulate (co)funding specific health service packages for certain target groups or for the entire population of Georgia. While in the case of the State Health Insurance System the Law on Healthcare does not differentiate between Georgian citizens and citizens of foreign countries, state health programs define beneficiaries of the respective program differently. For example, the beneficiaries of the “Mental health” state program are only Georgian citizens; “Immunization”, meanwhile, covers all persons, foreign or otherwise, who reside in Georgia on a permanent basis. The state health program “Treatment of patients with rare diseases and subordinated to permanent substitutive therapy”; also stateless persons residing in Georgia on a permanent basis.²³

While defining the right to social security for foreign citizens and stateless persons, Article 34 of the Law on Legal Status of Aliens and Stateless Persons distinguishes between foreign citizens permanently residing in Georgia and foreign citizens temporally residing in Georgia and also stateless persons. Foreign citizens with a permanent resident status shall have the same rights to receive allowances, pensions and other social benefits as those of Georgian citizens since they are non-contributory. As to others, social security issues shall be resolved in accordance with Georgian legislation and international agreements to which Georgia is a party. In Georgia, types of social assistance benefits and basic principles in granting social assistance benefits are regulated by the Law on Social Assistance. Article 4 of the above-mentioned law defines “social assistance” as any monetary or non-monetary benefit accorded to a person with special needs, a needy family or a homeless person. The law does not make any reference to the issue of nationality. Thus, qualified foreign citizens and stateless persons shall be also eligible to receive state assistance. However, the website of the Social Service Agency which is the managing authority for social and health programs does not provide statistics of beneficiaries by nationality.

According to Article 1.2 of the Law on State Pensions, Georgian citizens have to be granted state pensions. However, this is also true of foreign citizens and stateless persons residing in Georgia legally and on a permanent basis during the last 10 years. Qualified persons can receive the state

²⁰ Order No 98/n of the Minister of Education and Science of Georgia on the Approval of the Procedure of Validation of Georgian Educational Documents and Recognition of Foreign Education and Fees of 1 October, 2010. “Sakartvelos Sakanonmdablo Matsne”, 126, 01/10/2010.

²¹ For defining the poverty threshold Georgia follows the international poverty line calculated by the World Bank. See <http://data.worldbank.org/topic/poverty>.

²² Adopted 10 December 1997 (Last amended on 8 May 2012). „Parlamentis Utskebani“, 47-48, 31/12/1997.

²³ Decree No 92 of the Government of Georgia on Approval of State Health Programs for the Year 2012, 15 March 2012. “Sakartvelos Sakanonmdablo Matsne”, 16/03/2012.

pension at age 65 (*for men*) and 60 years (for women).²⁴ Unfortunately, there is no statistical information on the numbers of foreign citizens benefiting from state pensions.

Political integration

Article 27 of the constitution of Georgia refers to the right of the state to impose restriction on the political activity of citizens of a foreign country and stateless persons. This provision serves as a basis for several restrictions which can be found in Georgian legislation. In particular, while defining the category of persons eligible to participate in a referendum or elections to state and local self-government bodies, Article 28 of the Constitution explicitly refers to Georgian citizens. Based on this provision of the Constitution, the Organic Law on Referendum and the Election Code stipulate that in order to have the right to participate in elections or referenda and plebiscites, the person has to be a Georgian citizen. Furthermore, the Election Code imposes restrictions on the financing of election entities and election candidates by citizens of foreign countries (Articles 45.4, 96, 111, 134, 167). Logically, Article 26.2 the Constitution, Article 38.1 of the Law on Legal Status of Aliens and Stateless Persons and Article 8 of the Organic Law on Political Associations of Citizens attribute only to the Georgian Citizens the right to participate in the founding and day-to-day work of a political party. Besides, according to Article 26.1 of the Organic Law on Political Associations of Citizens, political parties are prohibited from receiving financial or material donations from foreign citizens and stateless persons.

Unlike participation in political life the activities of foreign citizens with regard to participation in the non-governmental organizations is not restricted. According to Article 38 of the Law on the Legal Status of Aliens and Stateless Persons, they have the right to establish public associations, to join trade unions, scientific, cultural and sports associations and other public associations on equal terms with Georgian nationals provided that this does not contradict laws of such associations and the legislation of Georgia. Generally, legal relations regarding the establishment and functioning of non-commercial associations is regulated by the Civil Code which does not set any restrictions with regard to foreign citizens, either in terms of the establishment and functioning or financing.

The provisions of the Constitution of Georgia which were adopted as a part of constitutional amendments on 22 May 2012 should be regarded as a very specific case. Namely, according to Article 104¹ of the Constitution, not only Georgian citizens but also individuals who were born in Georgia and who have lived permanently in Georgia for the last 5 years and who have EU member state citizenship have the right to vote and stand in parliamentary or presidential elections. They are also allowed to become President, chairperson of the Parliament and Prime Minister. The above-mentioned provision is of transitional character and will be valid until 1 January 2014.²⁵

Language

According to Article 26 of the Law on Citizenship of Georgia, one of the criteria for getting Georgian citizenship is that the person knows the Georgian language. This precondition does not exist for issuing the permanent residence permit.

As to studying in educational institutions, according to Article 4 of the Law of Georgia on General Education, the language of teaching in institutions of general education is Georgian and in the Autonomous Republic of Abkhazia, also Abkhazian. However, citizens of Georgia, whose native

²⁴ The ordinary "pension packet" is GEL 140 (approximately EUR 65) (effective September 2012). According to the data of the National Statistics Office of Georgia, the current official minimum living wage is GEL 149 (approximately EUR 69) in Georgia. Source: http://geostat.ge/index.php?action=page&p_id=179&lang=eng.

²⁵ These amendments were initiated in order to allow one of the leaders of the political opposition to run in the October 2012 parliamentary elections and the presidential election in 2013. See <http://www.civil.ge/eng/article.php?id=24785>.

language is not Georgian, have the right to secondary education in their native language.²⁶ In an educational institution the language of teaching may also be other foreign languages whenever so provided by an international agreement. However, in all of these cases, it is obligatory to teach the state language. As to higher education, according to Article 4 of the Law on Higher Education, the language of instruction at a higher educational institution is Georgian and in Abkhazia also Abkhazian. However, instruction in other languages is permitted provided that this is envisaged by an international agreement or provided that this is agreed with the Ministry of Education and Science of Georgia.

Requirements for acquiring a permanent residence permit and options for becoming a citizen

Georgian legislation stipulates several options open to foreign citizens in obtaining permanent residence permits. According to Article 20.1 (b) of the Law on the Legal Status of Aliens and Stateless Persons, a permanent residence permit may be granted not only to those foreign nationals who have lived in Georgia for a certain period of time (the last six years in this case) but also to those whose spouse, parent, child, grandchild, adoptive child, sister, brother, grandfather or grandmother are Georgian citizens.²⁷ Further, along with other categories, permanent residence permits may also be granted to foreign citizens, who own in Georgia real estate worth at least GEL 100,000 (approximately EUR 46 616) or who have this amount in his or her bank account in Georgia or who have made investments in Georgia of not less than GEL 100,000 (approximately EUR 46 616). In such a case the right is extended to members of his or her family – spouse, child, adopted child, and an incapable person or a person unable to work being fully dependant on him or her. Other members of his or her family (parents, grandchildren or adoptive parent) will be granted a permanent residence permit in case the foreign citizens will make an additional investment of GEL 10,000 (approximately EUR 4662) or who will deposit this amount in his or her bank account in Georgia (Article 20.1 (f) (g) of the Law on Legal Status of Aliens and Stateless Persons). Besides, highly qualified specialists-technicians in scientific fields, sportsmen and art workers, whose arrival corresponds to the interests of Georgia may also obtain a permanent residence permit (Article 20.1 (c) of the Law on Legal Status of Aliens and Stateless Persons).

As to acquiring Georgian citizenship, the Law on Citizenship of Georgia²⁸ establishes standard requirements for naturalization. In particular, according to Article 26 of the above-mentioned Law, a foreign citizen or a stateless person may acquire Georgian citizenship if he or she permanently resides on the territory of Georgia for the previous five years. In addition, he or she must know the language of state, the history of Georgia and its legislative framework within the limits established by law.²⁹ Besides, he or she should have a job or any real estate on the territory of Georgia and/or be an entrepreneur, with shares in either capital or stocks of companies registered in Georgia.³⁰ Apart from this procedure the Constitution gives to the President of Georgia a competence to grant citizenship to a

²⁶ More than 400 minority language schools are financed by the state.

²⁷ The state duty to be paid for issuance of permanent residence card varies depending on the term of service. For Issuance on 30th business day the state duty to be paid is GEL 180 (Approximately EUR 84). Though, it can also be issued on the 20th business day for the state duty GEL 300 (Approximately EUR 140).

²⁸ Adopted 25 March 1993 (Last amended 25 May 2012). „Sakartvelos Respublikis Uzenaesi Sabchos Utskebebi“, 25/03/1993.

²⁹ The Applicant has to pass an exam to the permanently operating Commission of Civil Issues for testing the state language, history of Georgia and the legislation of Georgia. The decision of the Commission of Civil Issues may be appealed as provided by the law.

³⁰ The law on the Citizenship of Georgia limits the term for considering application of an individual on acquisition of citizenship to three months. The state duty to be paid for the acquisition of citizenship varies depending on the term of service: 80 business day - GEL 50 (Approximately EUR 23), 20 day - GEL 300 (Approximately EUR 140).

citizen of a foreign country who has a special merit before Georgia or who grants Georgian citizenship to him/her due to State interests. In this case the person can also retain citizenship of a foreign country.

In the case of children, one of whose parents is a citizen of Georgia, citizenship can be considered as established if they were born on the territory of Georgia or outside the borders of Georgia provided one of the parents has a permanent place of residence on Georgian territory. Further, a child is considered as a Georgian citizen if one of the parents, at the date of a birth of a child (regardless of the place of birth) is a citizen of Georgia and if the other is a stateless person or unknown (Article 12 of the Law on Citizenship of Georgia).

Children of stateless persons ascertained according to the rules established by the Law on Legal Status of Aliens and Stateless Persons who reside permanently on the territory of Georgia are also considered as Georgian citizens if they are born on the territory of Georgia (Article 13 of the Law on the Citizenship of Georgia).³¹

Reintegration of returning Georgian migrants

Several projects with the aim of supporting the reintegration of returning Georgian migrants are being or have recently been implemented. In particular, the Targeted Initiative for Georgia “Support reintegration of Georgian returning migrants and the implementation of EU – Georgia readmission agreement” which is based on the objectives of the Mobility Partnership between the European Union and Georgia; “Voluntary Return and Reintegration of Migrants” – a Project implemented by the IOM; “Integration of Georgian Migrants into Labor Market” – a project of the European Commission-United Nations Joint Migration and Development Initiative; Professional staffs program for returned migrants, a project of the Center of International Migration and Development (CIM) and the German Agency for International Cooperation (GIZ).³² The main objective of these projects is to support the reintegration process of returned migrant into the Georgian labour market. Therefore, returned migrants are provided with training and assistance in finding employment, e.g. they are offered courses and information on vacancies.

In the context of reintegration of the recognition of qualifications obtained abroad is absolutely crucial. This is carried out by the National Center for Educational Quality Enhancement and has been discussed above.

Impact of the EU-Georgia relations on development of integration policy

Special mention should be made concerning the impact of the development of EU-Georgian relations on the development of integration policy. A general framework for supporting the development of migration policy in Georgia is created by the Cooperation and Partnership Agreement, the European Neighbourhood Policy and the Eastern Partnership.³³

As a result of the instruments of cooperation between Georgia and the European Union, on 13 October 2010, the Government of Georgia established the Governmental Commission on Migration

³¹ For further details see EUDO Citizenship Observatory, Country report for Georgia by Alexi Gugushvili. Report is available online: <http://eudo-citizenship.eu/docs/CountryReports/Georgia.pdf>.

³² See Labour market and reintegration of returning migrants in Georgia, Tbilisi, 2012 (in Georgian).

³³ For further details see Effect of Migration Policies on Human Rights in the European Neighbourhood, Case study for Georgia by Gaga Gabrichidze, available online on the web site of the European Parliament: <http://www.europarl.europa.eu/committees/en/droi/studiesdownload.html?languageDocument=EN&file=42331> last accessed 20 November 2012.

Issues.³⁴ It was established for the purpose of defining a unified policy of the Georgian government in the field of migration and for improving the state system of management of the migration processes in Georgia. The Commission consists of representatives of the following state institutions: the office of the State Minister for Euro-Atlantic Integration, the office of the State Minister for Diaspora Issues, the Ministry of Justice, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, the Ministry of Economy and Sustainable Development, the Ministry of Labor, Health and Social Affairs, the Ministry of Finance, Ministry of Education and Science and the National Statistics Office. One of the tasks of the Commission is preparing proper proposals for activities to be implemented in the field of migration in accordance with the ENP Action Plan. The Commission prepared a draft version of the Migration Strategy which was presented in August 2012. It should be noted that in this document considerable attention is given to the issue of reintegration of returning Georgian citizens.³⁵ This is, first of all, caused by the fact that Georgia concluded readmission agreements with several states and most notable the Agreement on the Readmission of Persons Residing without Authorisation which was concluded with the EU on 22 November 2010 and which entered into force on 1 March 2011. The Migration Strategy has been submitted by the Commission on Migration Issues to the Government of Georgia for approval.

Conclusion and Recommendations

The liberal character of migration policy in Georgia finds its expression in establishing rules and condition of living in Georgia for foreign citizens. The requirements for getting temporary and permanent residence permits are quite limited and the legal status of foreign citizens with that of Georgian citizens is adjusted to a high level. There is no policy document on the integration of migrants and also no specific integration-related programs except with the above-mentioned program for supporting reintegration. Therefore, on the one hand, due to this liberal approach foreign citizens have broad opportunities to reside and work in Georgia; but, on the other hand, activities and participation in the society of those migrants who are not sufficiently proficient in Georgian language can be limited.

Proficiency in the language of the host country is particularly crucial for the successful integration of migrants into local society. Most countries require migrants to demonstrate proficiency in the relevant language. This is done within the framework of issuance of work permits, residence permits or citizenship. In Georgia a certain level of proficiency is required only if a given person wants to acquire Georgian citizenship.

An integration policy document should be recommended which will define objectives and measures with regard to the integration of migrants. It is desirable to prioritize the language issue. In this regard the state should have a wide range of mechanisms. For example, the state can offer migrants language courses³⁶ for free. Attendance of these courses can be obligatory or optional. Or the state could go one step further and require migrants to demonstrate proficiency in Georgian, not only before granting citizenship but also before granting a permanent residence permit.³⁷

³⁴ Decree No 314 of the Government of Georgia on Establishing the Governmental Commission on Migration Issues and Approval of its Statute of 13 October 2010. "Sakartvelos Sakanonmdablo Matsne", 134, 19/10/2010.

³⁵ The text of the draft of the Migration Strategy (in Georgian) can be found on the CARIM-East web site: <http://www.carim-east.eu/media/sociopol_module/Draft%20Strategy%20of%20Migration%202013-2015.pdf> last accessed 20 November 2012.

³⁶ The courses can contain not only a language component but also issues of culture, legal system or history.

³⁷ The level of proficiency required can be based on Common European Framework of Reference for Languages (CEFR).